

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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IN RE WTC LOWER MANHATTAN SITE  
LITIGATION  
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BERTHA TACHE,

Plaintiff,

-against-

100 CHURCH STREET, ET AL.

Defendants.  
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21 MC102 (AKH)  
07-cv-1537 (AKH)

AFFIDAVIT OF NON-PARTY  
WITNESS DR. CARLOS J.  
SERRANO IN SUPPORT OF  
MOTION FOR A PROTECTIVE  
ORDER

STATE OF NEW YORK     )  
                                  ) SS:  
COUNTY OF NEW YORK    )

DR. CARLOS J. SERRANO, under penalties of perjury, hereby swears as follows:

1. I am a general practice physician, I am over eighteen years old, and I am not a party to this action. I make the factual allegations contained herein based upon my own personal knowledge, information and belief. If called to testify, I would do so truthfully and consistent with the following.

2. I am licensed to practice medicine in the State of New York. My license number is 221633-1. In 2004, I opened my own medical practice in Jackson Heights, New York and I have been a successful solo practitioner since then. Currently, my medical practice is located at 37-22 88th Street, Jackson Heights, New York 11372.

3. I see between 20-25 patients per day and I earn roughly \$2500 per day from treating these patients.

4. I am the primary physician for many of my patients, and for those patients I have extensive records and can offer a great deal of insight regarding their medical histories and health conditions. However, many of my patients come for only several visits or for only several weeks; for those patients I can only offer limited insight about their medical histories and medical conditions. I have patients who see me several times and then vanish because I see many union workers and the union workers only receive medical insurance if they complete a certain number of hours; thus, if they fail to complete their hours, they do not have any health coverage. A union worker may appear once or twice to see me and then may fail to appear again because he or she no longer has health coverage.

**The Subpoenas from Wilson Elser,  
McGivney & Kluger, PC, and Cozen O'Conner**

5. I received a subpoena from the law office of Wilson Elser in early October 2013 requesting the medical records of Mr. Angel Avila and noticing a deposition date for October 17, 2013. I appeared as required for that date and sat for my deposition. Many attorneys were present. I assumed the subpoena was a one-time thing and I would not be asked to sit for a deposition again. However, much to my surprise, I received three more subpoenas requesting documents and also noticing deposition dates (See Exhibits A-C). I was a little overwhelmed. I worked with my office manager San Lucas to find, organize, copy, and send the medical records, and the depositions, which were being held at a location far from my office in Jackson Heights, presented a huge burden to me.

6. On or about January 24, 2014, I contacted Shapiro Tamir Law Group, PLLC and retained them to represent me in this matter. I asked them to schedule all remaining depositions on the same date so that I would not have to lose any more time from work. My attorney contacted the relevant law offices and agreed that all remaining deposition would be

held on January 30, 2014.

7. On January 30, 2014, I appeared at the offices of US Legal Support, Inc., 425 Park Avenue, 5th Floor, New York, NY 10022, and was deposed regarding the medical history and conditions of Plaintiff Gustavo Mendoza (by the attorneys of Cozen O'Connor) and of Plaintiff Aida Chalco (by the attorneys of McGivney and Kluger). Several other attorneys were present and asked follow up questions.

**The Subpoena from Harris Beach, PLLC,  
in the matter of *Bertha Tache v. 100 Church Street et al.***

8. I treated Bertha Tache, the Plaintiff whose medical history is at issue in the instant action, for several years. I saw her roughly 10 -13 times.

9. When I received the subpoena from Harris Beach, PLLC, on or about December 6, 2013 noticing a deposition for January 13, 2014. (See Exhibit C). I immediately had my office manager San Lucas place a call to Kimberly A. Connick, Esq. from Harris Beach, PLLC to request an alternative deposition date because I was scheduled to be out of the country on January 13, 2014. Kimberly, of the law office of Harris Beach, PLLC, agreed to adjourn my deposition date to January 30, 2014, the date other defendant law firms were scheduled to take my deposition. Thereafter, I expected to receive a new subpoena or further communication from Harris Beach, PLLC but I received no communications at all. In fact, the first time I heard that they still wanted to take my deposition was on the afternoon of January 30, 2014, after two other law firms had taken my deposition.

10. I was shocked when after these depositions an attorney from Harris Beach, PLLC, asked my attorney to schedule a deposition date. I was sure I would have heard for them sooner or that they would have joined all the other attorneys who deposed me on January

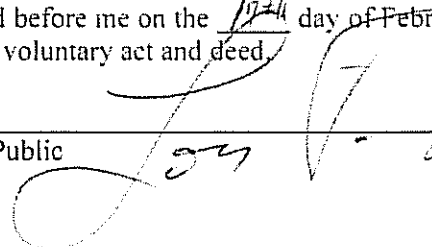
30, 2014, as Kimberly had stated when I spoke to her in early December 2013. It is unduly burdensome for me to appear for yet another deposition. I will have to reschedule all the patient appointments I have on that date, and I will lose significant income from appearing at a deposition yet again. Moreover, I don't see why my deposition is necessary. I have already produced Bertha Tache's medical records and I believe any competent nurse can explained the medical terms to the attorneys. I additionally agreed to sign an affidavit explaining the medical records if that is needed. Thus, I do not believe that my appearance at a deposition is necessary. From my end, it will be costly and burdensome.

I SWEAR THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

  
Dr. Carlos J. Serrano

2-7-2014  
Date

I, the undersigned Notary Public, do hereby affirm that DR. CARLOS J. SERRANO personally appeared before me on the 17th day of February 2014, and signed the above Affirmation as his free and voluntary act and deed.

  
Notary Public

**LOUIS B. ESPINOZA**  
Notary Public State of New York  
No. 01ES6233220  
Qualified in Queens County  
Commission Expires December 27, 2014

Subscribed and sworn to before me  
this 17th day of February 2014  
Notary Public